

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 4029 of 2007(D)

PETITIONER:

DEVASIA APREL,
URUMBELNIRAPPEL, KURUVAMOOZHY, ERUMELY.

BY ADV. SRLJOICE GEORGE

RESPONDENTS:

1. KANJIRAPPALLY HOUSING CO-OPERATIVE
SOCIETY, KANJIRAPPALLY, REPRESENTED BY ITS
SECRETARY.
2. SENIOR INSPECTOR OF CO-OP. SOCIETY,
ARBITRATOR-CUM-SPECIAL, SALE OFFICER,
KERALA STATE CO-OP. HOUSING FEDERATION,
KALOOR, ERNAKULAM, KOCHI-17.

BY SR. GOVERNMENT PLEADER SRI. P.K. RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE SALE NOTICE DATED 3.1.07.
- EXT.P2: TRUE COPY OF THE PETITION FOR THE BENEFIT OF O.T.S. SCHEME
SUBMITTED BY THE PETITINER TO THE 1ST RESPONDENT ON
14.1.07.
- EXT.P3: TRUE COPY OF THE LETTER ISSUED FROM THE 1ST RESPONDENT TO
THE PETITIONER ON 19.1.07.
- EXT.P4: TRUE COPY OF THE LETTER DATED 19.1.07 ISSUED FROM THE
2ND RESPONDENT.
- EXT.P5: TRUE COPY OF THE PETITION DATED 31.1.07.

/TRUE COPY/

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.4029 OF 2007

DATED THIS THE 5th DAY OF MARCH, 2007

JUDGMENT

The petitioner is a defaulter in re-payment of loan amounts due to the 1st respondent – Society. The petitioner is challenging sale proceedings of the properties of the petitioner for recovery of the loan amounts. The contentions of the petitioner is that the sale proceedings are vitiated by non-compliance with the provisions of Rule 85 of the Kerala Co-operative Societies Rules, in so far as the entire property is proposed to be sold when only sale of the portion of the property would fetch the entire loan amount.

2. Learned Counsel for the 1st respondent – Society would submit that by Ext.P3, the Society had offered to reduce Rs.58,342/- as per the One Time Settlement Scheme and even then the petitioner has not cared to repay the amount.

3. Having heard both sides, I dispose of this writ petition on the following terms:

Within two weeks from today, the 1st respondent – Society shall inform the petitioner the exact amount due from the petitioner to the Society after deducting the amount of Rs.58,342/-, with the interest

accrued. Thereafter that amount would be paid by the petitioner in eight equal monthly instalments starting from 31.3.07. The subsequent instalments shall be paid on the 31st of every succeeding month. If the petitioner pays the mount as directed above promptly without fault, further coercive recovery proceedings pursuant to the impugned notice shall be kept in abeyance. However, if the petitioner makes default in payment in one instalment, it would be open to the respondents to continue proceedings in accordance with the notice now issued without having to issue any fresh notice or proceedings in that regard.

S. SIRI JAGAN, JUDGE

Acd

